IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.17821 of 2007

DATED 28-8-2007

BETWEEN

Smt.Sheela and 5 others.

.. Petitioners

And

The Joint Collector,
Adilabad District and another.

.. Respondents

THE HONOURABLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.17821 of 2007

Oral Order:

The petitioners are statedly the legal heirs and successors of late Mahadevlal of Muthnoor Village of Indervelli Mandal of Adilabad District. He was assigned land admeasuring Ac.21.34 cents in Survey Nos.76KK, 84KK, 87KK, 88KK by proceedings of the Social Welfare Officer dated 4.3.1972. In 1989 proposals were submitted by the Sub-Collector, Muthnoor for cancellation of the assignment. The Joint Collector, therefore, cancelled the assignment by proceedings dated 8.11.1989 after following due process of law. The said cancellation order was assailed in Writ Petition No.16864 of 1989. The same was disposed of on 21.1.1997 observing that the petitioners may file an appeal before the Collector (Land Revenue). In obedience thereto, the petitioners preferred an appeal before the Collector, which was treated as an appeal under Sections 158 and 166-B of Andhra Pradesh

(Telangana Area) Land Revenue Act, 1317 Fasli ('the Act' for brevity). By impugned order dated 5.5.2007, the first respondent dismissed the appeal observing that the earlier order of cancellation dated 8.11.1989 stands good.

Learned counsel for the petitioners submits that Mahadevlal was in possession of the land long prior to independence and his occupation was only regularized in 1972 by granting assignment. Therefore, it was improper to apply G.O.Ms.No.971, Revenue Department dated 7.10.1969 or the Andhra Pradesh Scheduled Areas Land Transfer Regulations, 1959 (Regulations). The learned Assistant Government Pleader opposed the writ petition. He contends that the earlier cancellation order dated 8.11.1989 was challenged before this Court and the same was not specifically set aside. Therefore, the question before the Joint Collector was whether the earlier order was properly passed or not. According to learned Assistant Government Pleader, in scheduled areas, if any non-tribal is found to be in occupation of the land, he is liable to be evicted in accordance with the provisions of the Regulation.

As rightly pointed out by the learned counsel for the petitioners as well as the learned Assistant Government Pleader, the first respondent cancelled the assignment made in favour of Mahadevlal on two grounds. Firstly, the land in agency area cannot be transferred to a non-tribal as per the provisions of the Regulations and secondly such assignment in favour of a non-tribal is contrary to G.O.Ms.No.971 dated 7.10.1969. Insofar as the prohibition of assignment of land in tribal areas imposed by G.O.Ms.No.971 is concerned, the same is not seriously disputed. However, the learned counsel for the petitioners strenuously contends that the Regulation has no application when a non-tribal is in occupation of a land in a tribal area when he was assigned the said land. The submission cannot be accepted. In **Suresh Bhargava v. State of A.P.**[1] a learned Single Judge of this Court laid down that the assignment of a land in a tribal area or an encroachment of land in a tribal area also amounts to transfer, which is rendered void by Section 3(1)(a) of the Regulations. Further, in **Amrendra Pratap Singh Tej Bahadur Prajapati**[2] the Supreme Court considered the question (dealing in immovable property in a tribal area) and held that even an encroachment in a trial area amounts to transfer.

In view of the above, this Court holds that the Joint Collector has appreciated the facts and applied the law correctly and the same does not warrant any interference.

Learned counsel for the petitioners contends that the petitioners have raised dry crops as well as commercial crops in the land and they may be permitted to take away the crop. The petitioners are given liberty to approach the Joint Collector and Mandal Revenue Officer, who may consider such request keeping in view the position that Mahadevlal was assigned the land way back in 1972.

The writ petition, with the above observation is accordingly dismissed. No costs.

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V.V.S.RAO,J

Dated 28.8.2007

msv

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[1] 1989(2) ALT 516

[2] (2004)10 SCC 65